

# **TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

## **BOARD MEETING**

**MAY 11, 2004**

President Joe Baumgartel called the meeting to order at 10:15 a.m. in Room 160, Davy Crockett Tower, Nashville, Tennessee.

Board members present were Joe Baumgartel, President, Bob Arrington, Vice President, Danny Cook, Wendy Hellum, Bob Foster, Ralph Buckner, Jr., and Wayne Hinkle.

Staff members present were Robert Gribble, Executive Director, Marilyn Tucker, Legal Counsel, Bill Luna and Jimmy Kesey, Field Representatives, and Leslie Carol Hogue, Administrative Assistant.

### **APPROVAL OF MINUTES:**

**MOTION:** Motion was made by Mr. Buckner to approve the minutes of the April 13, 2004, Funeral Directors and Embalmers Board meeting.

The motion was seconded by Mr. Hinkle.

Adopted by voice vote.

### **APPEARANCE BEFORE THE BOARD:**

**James E. Gipson - Complainant**  
**Complaint #200208001**

Board member Bob Foster recused himself regarding this particular complaint.

Ms. Marilyn Tucker, Legal Counsel for the Funeral Board, presented the complaint brought by Mr. Gipson against Mr. Dean Lay and Lay Cumberland Funeral Home. Mr. Gipson wanted an opportunity to present his complaint in person before the Board. Mr. Gipson stated that he had prepaid for a funeral policy for his mother, Hattie Marie Gipson, and himself at Lay Cumberland Funeral Home in April 2000. On September 1, 2001, when his mother died, Mr. Lay told Mr. Gipson that his employee, Mr. James Berry, would transport Mrs. Gipson's remains to Chattanooga for cremation and bring back her cremains. Mr. Gipson stated that he felt good about this arrangement since he personally knew the person transporting his mother's remains to and from the crematory. Memorial services were conducted in September 2001.

In February 2002, Mr. Gipson stated that while in Florida he heard about the Tri-State Crematory matter. He stated that he tried unsuccessfully several times to contact Mr. Lay to find out about his mother. He stated that he was initially told that his mother's remains never went to Georgia. He stated that he later found out that Tri-State Crematory was used, and his "friend" did not transport the body. His mother's body was found on the property of the Tri-State Crematory in Noble, Georgia. The remains

had not been cremated. Mr. Gipson stated that Mr. Lay avoided telling him this information and prior to the body's transportation to Tri-State, had failed to inform him of the intended place of cremation of the body. He alleges that Mr. Lay should have known of the situation at Tri-State Crematory and that Mr. Lay lied to him on various occasions. Mr. Gipson did state that he had signed a cremation authorization form, but was not given a copy of it. Mr. Gipson feels that Mr. Lay should be punished for what he did.

Mr. Gipson was recently part of a settlement in a class action suit in federal court against Tri-State Crematory and various funeral homes.

Ms. Tucker stated that the funeral home had responded to the complaint.

**MOTION:** Motion made by Mr. Arrington to request Mr. Gipson and Dean Lay to be present at the next board meeting so that all sides would have the opportunity to appear in person before the Board.

Seconded by Mr. Buckner

Adopted by voice vote

**INFORMAL HEARING:**

**Funeral Board vs. T. H. Hayes & Sons, Memphis, TN – Paul Parham, Manager**

Mr. Parham came before the Board to address the complaint concerning the issue of whether he was a full-time manager at T. H. Hayes & Sons and Golden Gate Funeral Home. The issue also concerned whether he was employed full-time as a substitute teacher. Mr. Parham had been fined \$1,000.00 for being listed as the full-time manager of two separate establishments while also having another job in the school system.

**BOARD RECOMMENDATION:** Board will rescind one-half of fine (\$500.00) if Golden Gate will voluntarily close their establishment. Mr. Parham was requested to get the owner of Golden Gate Funeral Home to send a letter to the Board office stating that it was closed. The Board would like for Mr. Parham to come back next month and bring documentation of his work as a substitute teacher.

**MOTION:** Motion was made by Mr. Buckner for Mr. Parham to verify to the board that there is a licensed funeral director at the funeral home whenever he is away working as a substitute teacher, to let the disciplinary action stand, and to give him until the next board meeting to send requested documents, or he will have to pay fine at that time. Also, Mr. Parham is to appear at the next board meeting.

Seconded by Mr. Arrington

Adopted by voice vote

**APPROVAL OF FUNERAL DIRECTOR AND/OR EMBALMER LICENSES:** Upon motion, based upon the application records, the following applicants were approved for licenses.

LINDA BARHAM FINLEY, TN	FUNERAL DIRECTOR
BETTY JANE BOALS DYERSBURG, TN	FUNERAL DIRECTOR
ROBERT STEWART SYKES CLARKSVILLE, TN	FUNERAL DIRECTOR
DEWEY LEE THOMAS LIMESTONE, TN	FUNERAL DIRECTOR
SANDRA F. WALKER NASHVILLE, TN	EMBALMER

**APPROVAL OF FUNERAL ESTABLISHMENT LICENSES:** Upon motion, based upon the application records, the following applicants were approved.

HAMILTON HILLS FUNERAL HOME & CREMATION CENTER ANTIOCH, TN	NAME CHANGE
HARPETH HILLS MEMORY GARDENS, FUNERAL HOME & CREMATION CENTER NASHVILLE, TN	NAME CHANGE
WEST HARPETH FUNERAL HOME & CREMATORY NASHVILLE, TN	NAME CHANGE
HENDERSONVILLE MEMORY GARDENS, FUNERAL HOME & CREMATION CENTER HENDERSONVILLE, TN	NAME CHANGE
COFFEY FUNERAL HOME TAZEWELL, TN	OWNERSHIP CHANGE/NAME CHANGE
COFFEY FUNERAL HOME HARROGATE, TN	OWNERSHIP CHANGE/NAME CHANGE
NAVE FUNERAL HOME ERIN, TN	OWNERSHIP CHANGE
MCREYNOLDS – NAVE & LARSON FUNERAL HOME CLARKSVILLE, TN	OWNERSHIP CHANGE

**LEGAL REPORT:**  
**MARILYNN TUCKER, STAFF ATTORNEY**

**Case Review**

**1) #200418806**

**COMPLAINT:** Daughter and husband upset over embalming of her father (hand placement) and over song selection not being done as requested. Family told that due to time constraints/schedule conflicts, embalmer of choice and music of choice could not be accommodated.

**RESPONSE:** FD answered complaint and stated that problem with hand placement was due to body size and that song selection was honored at end of the service. He states that rest of family was satisfied.

**RECOMMENDATION: Dismiss**

**MOTION:** Motion was made by Mr. Arrington to accept counsel's recommendation.

Seconded by Mr. Cook

Adopted by voice vote

**2) #200418942**

**COMPLAINT:** Couple accused FH1 of being rude when FH1 was requested to allow FH2 have body of deceased after FH1 had removed body as directed/authorized by deceased's next of kin. Couple states FH1 cursed at them through a representative over the phone, made demands, and questioned their choice/authority.

**RESPONSE:** FH1 contends that the two people calling were not the ones who authorized original removal and that husband of deceased was the party to deal with on issue. However when FH1 tried to contact husband, they were unsuccessful. When FH2 came to get body, FH1 asked that FH2 get husband's signature and authorization, which eventually FH2 did. FH1 believes that FH2 may have solicited business in this matter, but no real proof of such was offered. In addition, FH1 states that couple who did most of calling/demanding was rude to personnel at FH1 and when couple questioned on why they were removing body, couple responded price. FH1 wonders how price was known since FH1 had not yet talked with or presented husband with a price list.

**RECOMMENDATION: Dismiss**

**MOTION:** Motion was made by Mr. Foster to accept counsel's recommendation

Seconded by Mr. Arrington

Adopted by voice vote

**3) #200418990**

**COMPLAINT:** Daughter complains of FH1 accepting and embalming mother's body, even though she was next of kin and had pre-arrangements elsewhere (FH2). Deceased's granddaughter, apparently through deceased's nephew and sister, supposedly told FH1 that daughter was to have nothing to do with funeral and they couldn't locate her. Daughter also complains that FH1 billed her after she had nothing to do with choosing their services.

**RESPONSE:** FH1 responds that as soon as daughter contacted them, they allowed removal to FH2. FH2 paid FH1 for embalming and removal. FH1 also states that daughter did not object when she found out FH1 had embalmed her mother.

**RECOMMENDATION: Dismiss, \$65.00 refund was made to daughter from FH1**

**MOTION:** Motion was made by Mr. Arrington to accept counsel's recommendation

Seconded by Mr. Cook

Adopted by voice vote

**4) #200418785**

**COMPLAINT:** Family complains of another family that brings "offerings" to their family member's tomb in mausoleum. These items are food, open beer cans, cigarettes and lighters. Family feels FH not dealing with the matter.

**RESPONSE:** FH sent a recent letter (copy in response) to family that brings "offerings" stating that such will no longer be allowed in tomb.

**RECOMMENDATION: Dismiss**

**MOTION:** Motion was made by Mr. Arrington to accept counsel's recommendation

Seconded by Mr. Foster

Adopted by voice vote

**5) #200418808**

**COMPLAINT:** FH complains that another FH continues to advertise falsely in area ads and on website. FH upset over other FH's statement that it is the only one in this particular location which is locally owned/operated.

**RESPONSE:** FH states that ads have been changed pursuant to an earlier complaint by same complainants, but that some ads were unable to be changed due to type of placement (i.e. school ads). FH has also contacted webmaster to update 2000 web ad.

**RECOMMENDATION: Dismiss**

**MOTION:** Motion was made by Mr. Foster to accept counsel's recommendation

Seconded by Mr. Arrington

Adopted by voice vote

**6) #200418809**

**COMPLAINT:** When body was disinterred for murder investigation, found inside chest cavity were cedar shavings instead of organs. Also, a large amount of water was in casket just six months after initial burial. Family very upset and has attorney.

**RESPONSE:** FH states that usually organs are not even received from ME. In this case, organs were disposed of as a bio-hazard. FH shocked of water content in casket too, and had no idea how that had come about. Such was replaced by FH, at no cost, when body re-buried.

**RECOMMENDATION:** FH should be admonished for unprofessional conduct in not preserving the internal organs of deceased, especially in this particular situation involving murder and subsequent investigation. Fine \$1000.00

**MOTION:** Motion was made by Mr. Arrington to accept counsel's recommendation

Seconded by Mr. Cook

Adopted by voice vote

**STAFF REPORT:**  
**ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**1. CLOSED ESTABLISHMENT**

Midtown Funeral Chapel, Inc. – Harriman, TN

On April 14, 2004 the board office received notification from Connie D. Sharp, Manager, stating this establishment closed for business as of Friday, April 9, 2004. The establishment had been operational only since December 10, 2003.

**2. NOTICE OF VIOLATION FORM**

Whenever the field representatives inspect establishments and determine that Chapter 5, Title 62 of Tennessee Code Annotated, governing the operation of Funeral Directors, Embalmers, and Funeral Establishments is being violated, a Notice of Violation indicating either a warning or citation is issued to the establishment or individual.

### **3. FUNERAL DIRECTORS REFUSING TO PROMPTLY SURRENDER DECEASED HUMAN REMAINS**

The Board office receives frequent telephone calls where problems have occurred whenever one funeral home is initially called to take charge of the funeral arrangements and then, for some reason, a different funeral home is selected to be in charge of the arrangements. Each caller is referred to Tennessee Code Annotated § 62-5-317(a)(7), which states "The board may refuse to grant, or may suspend, revoke or refuse to renew, any license granted to any person under the provisions of this chapter if the applicant or holder thereof has been guilty of refusing to promptly surrender the custody of a dead human body upon the expressed order of the person legally entitled to such body."

### **4. INACTIVE LICENSE REQUESTS**

Since the increase of fees in 2002 and the recent mailing of a large number of renewal notices, the office has received numerous requests for an "Inactive" license status.

### **5. DISCIPLINARY ACTIONS**

Complaint #	Action/Penalty	Statute/Rule
200315941	Letter of Caution	TCA §§ 62-5-107 and 62-5-101(1) - Person or persons legally entitled to authorize the cremation of a dead human body

### **6. CONTINUING EDUCATION**

The Executive Director does not recommend any approvals for extensions of time for licensees to complete the continuing education requirements.

#### **OTHER BUSINESS:**

Mr. Clyde Stephens and his daughter Pam Kelly, both licensed funeral directors, spoke to the board about the licensing of establishments. Mr. Stephens is the incoming President of the Tennessee Funeral Directors Association. Mr. Stephens was concerned that during April's meeting, the board granted an establishment license to a firm where the building is also used as a wedding chapel. Mr. Stephens and Ms. Kelly voiced their concerns as to the requirements which they felt should be met before the Board grants an establishment license.

The board explained that they are bound by the current statutes. Board members remarked about prior discussion by the Board concerning the possibility of having different types of establishment licenses and the necessity of legislative changes in order to have "tiered establishment licenses". The Board is supportive of changes to the existing laws in order to narrow the code. But under the current codes, Board members feel they are performing to the best of their ability. The board's primary responsibility is to protect the public, not the funeral directors or establishments.

**MOTION:** Motion was made by Mr. Arrington to adjourn.

Seconded by Mr. Buckner

Adopted by voice vote

There being no further business, the meeting was adjourned at 1:00 p.m.

Respectfully submitted,

Robert B. Gribble  
Executive Director